REMARKS

The following remarks are responsive to the August 12, 2004 Final Office Action. Claims 1-23 and 25 remain as previously presented, and Claim 24 was previously cancelled without prejudice. Thus, Claims 1-23 and 25 are presented for further consideration. Please enter the amendments and reconsider the claims in view of the following remarks.

Response to Rejection of Claims 1, 2, 5-8, 10, 14, 21-23, and 25 Under 35 U.S.C. § 103(a)

In the August 12, 2004 Final Office Action, the Examiner rejects Claims 1, 2, 5-8, 10, 14, 21-23, and 25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,740,549 issued to Reilly et al. ("Reilly") in view of U.S. Patent No. 6,268,849 issued to Boyer et al. ("Boyer").

Claim 1

As described herein, independent Claim 1 recites (emphasis added):

1.   A method of selecting user-preferred programs from a plurality of programs, comprising:
      accessing a first database that includes program information describing the plurality of programs through program attributes;
      obtaining a first set of user-defined criteria for identifying preferred program attributes from user input, <u>the preferred program attributes including attributes which a program must have in order to be of interest to the user</u>;
      obtaining a second set of user-defined criteria for identifying non-preferred program attributes from user input, <u>the non-preferred program attributes including attributes which a program must not have in order to be of interest to the user</u>; and
      <u>sorting through the first database using the first set of user-defined criteria and the second set of user-defined criteria to select programs</u>, the program attributes of each selected program having the preferred program attributes and not having the non-preferred program attributes.

Thus, Claim 1 recites using <u>both</u> the preferred program attributes <u>and</u> the non-preferred program attributes together to sort through the database of program information to identify programs <u>having</u> the preferred program attributes <u>and not having</u> the non-preferred program attributes.

This use of both preferred and non-preferred program attributes is further disclosed by the present application. As disclosed by the present application at page 7, line 23 – page 8, line 17, in certain embodiments, the advanced recommendation engine ("ARE") (emphasis added):

      sorts through the program information stored in the memory 4 to <u>determine a program having program attributes that include the preferred program attributes and exclude the non-preferred program attributes</u> as defined by a currently active

user profile.   The result of this sorting through the program information is presented to the user as the list. ... For example, the user may modify or override the general user profile and define the following profile:
   GENRE: Action, Adventure
   Preferred Actor(s): Clint Eastwood
   Non-Preferred Actor(s): Sandra Locke
   Era: 1970-1980
   The ARE interprets this user profile as "show me all action or adventure movies with <u>Clint Eastwood but not with Sandra Locke</u> that was released between 1970 and 1980." Upon activation of the ARE, the ARE determines all action or adventure movies that satisfy these criteria. The ARE permits a user to define complex statements defining the user's preferences. <u>A particular advantage is that the user may include and exclude certain criteria</u>.

In contrast, Reilly discloses an information and advertising distribution system which uses either "include only" or "exclude" filters for selecting or deselecting available news items. As disclosed by Reilly at column 9, lines 50-57 (emphasis added):

For each subcategory, <u>either an "include only" or an "exclude" filter (but not both)</u> can be defined where the user types in key words to be used to select (for the include only) or deselect news items within that subcategory.

Thus, Reilly does not disclose sorting through the database to select programs <u>that have the preferred program attributes and that do not have the non-preferred program attributes</u>, as recited by Claim 1. Applicant submits that Boyer also does not disclose this limitation of Claim 1.

Applicant submits that Claim 1 includes limitations which are not taught or suggested by the combination of Reilly and Boyer, so Claim 1 is patentably distinguished over the prior art. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of Claim 1 and pass Claim 1 to allowance.

Claims 2 and 5-8

Each of Claims 2 and 5-8 depends from Claim 1, so each of Claims 2 and 5-8 includes all the limitations of Claim 1, as well as other limitations of particular utility. For the above-stated reasons with regard to Claim 1, Applicant submits that Claims 2 and 5-8 are also patentably distinguished over the prior art. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 2 and 5-8 and pass these claims to allowance.

Claims 14, 21, and 22

For the reasons discussed above in relation to Claim 1, Applicant submits that the combination of Reilly and Boyer does not teach or suggest the apparatus recited by independent Claim 14, so that Claim 14 is patentably distinguished over the prior art. Therefore, Applicant

respectfully requests that the Examiner withdraw the rejection of Claim 14 and pass Claim 14 to allowance.

Each of Claims 21 and 22 depends from Claim 14, so each of Claims 21 and 22 includes all the limitations of Claim 14, as well as other limitations of particular utility. Applicant therefore submits that Claims 21 and 22 are patentably distinguished over the prior art. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 21 and 22 and pass these claims to allowance.

Claim 23

For the reasons discussed above in relation to Claim 1, Applicant submits that the combination of Reilly and Boyer does not teach or suggest the method recited by independent Claim 23, so that Claim 23 is patentably distinguished over the prior art. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of Claim 23 and pass Claim 23 to allowance.

Claim 25

For the reasons discussed above in relation to Claim 1, Applicant submits that the combination of Reilly and Boyer does not teach or suggest the method recited by independent Claim 25, so that Claim 25 is patentably distinguished over the prior art. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of Claim 25 and pass Claim 25 to allowance.

Response to Rejection of Claims 3, 4, 9, 11-13, and 15-20 Under 35 U.S.C. § 103(a)

In the August 12, 2004 Final Office Action, the Examiner rejects Claims 3, 4, 9, 11-13, and 15-20 under 35 U.S.C. § 103(a) as being unpatentable over Reilly in view of Boyer and further in view of U.S. Patent No. 6,172,674 issued to Etheredge ("Etheredge").

Claims 3, 4, 9, and 11-13

Applicant submits that the limitations of Claim 1 which are not taught or suggested by the combination of Reilly and Boyer are also not taught or suggested by Etheredge. Thus, Claim 1 is patentably distinguished over the combination of Reilly, Boyer, and Etheredge.

Each of Claims 3, 4, and 13 depends from Claim 1. Claim 9 depends from Claim 8 which depends from Claim 1. Each of Claims 11 and 12 depends from Claim 10 which depends from Claim 1. Thus, each of Claims 3, 4, 9, and 11-13 includes all the limitations of Claim 1, as well as other limitations of particular utility. Applicant therefore submits that Claims 3, 4, 9, and

11-13 are patentably distinguished over the combination of Reilly, Boyer, and Etheredge. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 3, 4, 9, and 11-13 and pass these claims to allowance.

<u>Claims 15-20</u>

Applicant submits that the limitations of Claim 14 which are not taught or suggested by the combination of Reilly and Boyer are also not taught or suggested by Etheredge. Thus, Claim 14 is patentably distinguished over the combination of Reilly, Boyer, and Etheredge.

Each of Claims 15 and 18 depends from Claim 14, each of Claims 16 and 17 depends from Claim 15, and each of Claims 19 and 20 depends from Claim 18. Thus, each of Claims 15-20 includes all the limitations of Claim 14, as well as other limitations of particular utility. Applicant therefore submits that Claims 15-20 are patentably distinguished over the combination of Reilly, Boyer, and Etheredge. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 15-20 and pass these claims to allowance.
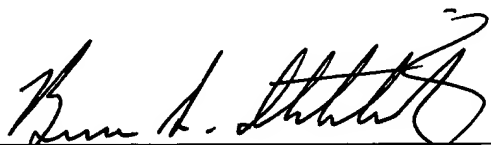
Summary

For the foregoing reasons, Applicant submits that Claims 1-23 and 25 are in condition for allowance, and Applicant respectfully requests allowance of Claims 1-23 and 25.

Respectfully submitted,

Dated: 10/18/04   By: _____

Bruce S. Itchkawitz
Registration No. 47,677
KNOBBE, MARTENS, OLSON & BEAR, LLP
Attorney of Record
2040 Main Street
Fourteenth Floor
Irvine, CA 92614
(949) 760-0404